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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 14.12.2006.

Ram Lal @ Ramu .... Petitioner.

vs

Bishna Ram .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Yogesh Chaudhary,Advocate,for the petitioner.

Kiran Anand Lall, J.

Both courts having declined to restrain the respondent-defendant from alienating the suit property during the pendency of the suit, the petitioner (plaintiff) has filed this petition under Article 227 of the Constitution of India, for setting aside their orders.

The suit pending before the trial court is for declaring the decree dated 22.9.1982 which Kanhya Ram, since deceased, had suffered in favour of the respondent, in respect of the suit land, as null and void on the ground that Kanhya Ram was not competent to alienate the land as it was his ancestral property.

The petition is liable to be dismissed, in limine, on the short ground that, as mentioned in para no.6 of the order of the appellate court, learned counsel for the petitioner had admitted before that court, during arguments, that Kanhya Ram became owner of the suit land, by way of pre-empting its sale, through a suit filed by him. In view of this categoric admission, the suit land was clearly his self-acquired property (and not ancestral) and he had every right to make the respondent, its owner, by suffering a consent decree in his favour. In the revenue records also, it is the

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respondent who is recorded as the owner in possession of the suit land. That being so, there is no, prima-facie, case in favour of the petitioner, and as such, the relief of temporary injunction has been rightly declined to him.

Dismissed.

14.12.2006. (Kiran Anand Lall)
vs. Judge.